

# Notice of Allowability

Application No.

09/819,144

Examiner

Hong Sang

Applicant(s)

TEREK, RICHARD M.

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/16/2006.
2. ☒ The allowed claim(s) is/are 7, 21 and 22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other Exhibits A and B.

  
**LARRY R. HELMS, PH.D.**  
**SUPERVISORY PATENT EXAMINER**

Hong Sang, Ph.D.  
Art Unit 1643  
Dec. 14, 2006

## **REASONS FOR ALLOWANCE**

### **RE: Terek**

1. The following is an examiner's statement of reasons for allowance:

Following a diligent search it was determined that the prior art neither teaches nor suggests an isolated polypeptide comprising SEQ ID NO.2, and a fragment of SEQ ID NO.2, which consists of SEQ ID NO.8. The following are the closest prior arts:

Honey (US Patent No. 5,708,158, Date of Patent 1/13/1998) teaches an isolated polypeptide consisting of SEQ ID NO. 6. However, the sequence of the SEQ ID NO. 6 is only 37% identical to the instantly claimed SEQ ID NO.2 (see sequence alignment, Exhibit A).

Gaynor et al. (US Patent No. 5,677,143, Date of Patent 10/14/1997) teaches a polypeptide consisting of SEQ ID NO.2. However, the sequence of the SEQ ID NO.2 is only 58.3% identical to the instantly claimed SEQ ID NO.8 (see sequence alignment, Exhibit B).

2. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1643

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hong Sang whose telephone number is (571) 272 8145. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry R. Helms can be reached on (571) 272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hong Sang, Ph.D.  
Art Unit 1643  
Dec. 14, 2006



LARRY R. HELMS, PH.D.  
SUPERVISOR/PATENT EXAMINER

*Exhibit A*

&lt;!--StartFragment--&gt;RESULT 61

US-08-818-823-6

; Sequence 6, Application US/08818823

; Patent No. 5708158

; GENERAL INFORMATION:

; APPLICANT: HOEY, Timothy

; TITLE OF INVENTION: NUCLEAR FACTORS AND BINDING ASSAY

; NUMBER OF SEQUENCES: 18

; CORRESPONDENCE ADDRESS:

; ADDRESSEE: FLEHR, HOHBACH, TEST, ALBRITTON &amp; HERBERT

; STREET: 4 Embarcadero Center, Suite 3400

; CITY: San Francisco

; STATE: California

; COUNTRY: USA

; ZIP: 94111

; COMPUTER READABLE FORM:

; MEDIUM TYPE: Floppy disk

; COMPUTER: IBM PC compatible

; OPERATING SYSTEM: PC-DOS/MS-DOS

; SOFTWARE: PatentIn Release #1.0, Version #1.30

; CURRENT APPLICATION DATA:

; APPLICATION NUMBER: US/08/818,823

; FILING DATE: 14-MAR-1997

; CLASSIFICATION: 536

; PRIOR APPLICATION DATA:

; APPLICATION NUMBER: 08/396,479

; FILING DATE: 02-MAR-1995

; ATTORNEY/AGENT INFORMATION:

; NAME: Osman, Richard A

; REGISTRATION NUMBER: 36,627

; REFERENCE/DOCKET NUMBER: A-59450-1/RAO

; TELECOMMUNICATION INFORMATION:

; TELEPHONE: (415) 494-8700

; TELEFAX: (415) 494-8771

; TELEX: 210 277299

; INFORMATION FOR SEQ ID NO: 6:

; SEQUENCE CHARACTERISTICS:

; LENGTH: 902 amino acids

; TYPE: amino acid

; TOPOLOGY: linear

; MOLECULE TYPE: protein

US-08-818-823-6

Query Match 21.5%; Score 57.5; DB 1; Length 902;

Best Local Similarity 37.0%; Pred. No. 1.1e+02;

Matches 17; Conservative 6; Mismatches 6; Indels 17; Gaps 3;

Qy 3 AGPRPGAPCRAGAPTIVLTSGRRQTLSHG---SSSPA---RATLGK 42

| ||| :|| | :| | | :||| | :|||

Db 258 ASPRPASPC-----GKRRYSSSGTPSSASPALSRRGSLGE 292

&lt;!--EndFragment--&gt;

Exhibit B

&lt;!--StartFragment--&gt;RESULT 28

US-08-242-677-2

; Sequence 2, Application US/08242677

; Patent No. 5677143

; GENERAL INFORMATION:

; APPLICANT: Gaynor, Richard B

; APPLICANT: Wu, Foon W.

; TITLE OF INVENTION: Cellular Nucleic Acid Binding Protein

; TITLE OF INVENTION: and Uses Thereof in regulating Gene Expression and in the

; TITLE OF INVENTION: Treatment of AIDS

; NUMBER OF SEQUENCES: 9

; CORRESPONDENCE ADDRESS:

; ADDRESSEE: Arnold, White &amp; Durkee

; STREET: P.O. Box 4433

; CITY: Houston

; STATE: TX

; COUNTRY: USA

; ZIP: 77210

; COMPUTER READABLE FORM:

; MEDIUM TYPE: Floppy disk

; COMPUTER: IBM PC compatible

; OPERATING SYSTEM: PC-DOS/MS-DOS

; SOFTWARE: PatentIn Release #1.0, Version #1.25

; CURRENT APPLICATION DATA:

; APPLICATION NUMBER: US/08/242,677

; FILING DATE:

; CLASSIFICATION: 435

; ATTORNEY/AGENT INFORMATION:

; NAME: Mayfield, Denise L.

; REGISTRATION NUMBER: 33,732

; REFERENCE/DOCKET NUMBER: UTSD:401

; TELECOMMUNICATION INFORMATION:

; TELEPHONE: 713-787-1400

; TELEFAX: 713-789-2679

; INFORMATION FOR SEQ ID NO: 2:

; SEQUENCE CHARACTERISTICS:

; LENGTH: 1621 amino acids

; TYPE: amino acid

; TOPOLOGY: linear

; MOLECULE TYPE: protein

US-08-242-677-2

Query Match 48.2%; Score 40; DB 1; Length 1621;

Best Local Similarity 58.3%; Pred. No. 4.9e+02;

Matches 7; Conservative 2; Mismatches 3; Indels 0; Gaps 0;

Qy 1 RRQTLSHGSSSP 12

|:| |||| : |

Db 1610 RQQLLSHGDTKP 1621

&lt;!--EndFragment--&gt;